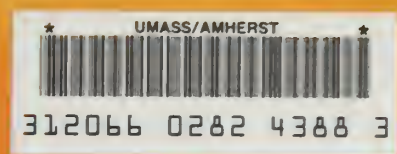


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MASSACHUSETTS TRIAL COURT  
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AN EVALUATION OF DRUNK DRIVING IN MASSACHUSETTS  
UNDER CHAPTER 373, ACTS OF 1982  
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A joint research project between  
The Office of the Commissioner of Probation  
Trial Court of the Commonwealth  
and  
The Division of Alcoholism  
Department of Public Health

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SECTION A

SECTION B

COURT DECISIONS FOR DRUNK DRIVING UNDER  
MASS. GENERAL LAWS, CHAPTER 373

PROFILE OF DRUNK DRIVING DEFENDANTS  
UNDER MASS. GENERAL LAWS, CHAPTER 373

Office of the Commissioner of Probation  
Trial Court of the Commonwealth

Division of Alcoholism  
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## SUMMARY OF FINDINGS

### Study Purpose and Description

On September 1, 1982, the Massachusetts General Court enacted legislation modifying the penalties and court practices relative to the offense of Driving Under the Influence of Liquor (DUIL), Chapter 373 of the Acts of 1982. The enactment of Chapter 373 was the result of increased number of drunk driving cases, motor vehicle deaths, national focus on drinking and driving, and public and official concern. The law it replaced (Chapter 505 of the Acts of 1975) was seen as needing a tougher penalty structure, especially in respect to the second and multiple offender.

Generally, the new law (Chapter 373 of the Acts of 1982) was designed to increase the certainty of punishment, thereby deterring motorists from the combination of drinking and driving. Accordingly, the new law increased the monetary costs associated with drunk driving, established mandatory license suspension and required mandatory jail sentence for repeat offenders, among other penalties.

The objectives of this study were as follows:

1. To document and describe processing and disposition of DUIL cases under Chapter 373
2. To examine the relationship of court disposition and sentencing practices in light of prior DUIL arraignment history.
3. To compare actual court disposition and sentencing practices to those prescribed by Chapter 373.
4. To compare present court practices in DUIL cases to prior practices.
5. To assess the impact of Chapter 373 upon the appeal process.
6. To develop a descriptive profile of current DUIL defendants.
7. To compare defendant profile characteristics to other samples of DUIL defendants.

The study was conducted by analyzing a sample of 2,661 DUIL cases from court appearance records submitted by all District/Boston Municipal Court probation offices across the state to the Probation Central File at the Office of the Commissioner of Probation. The sampling period was March 21-April 8, 1983, six months after implementation of Chapter 373. Criminal history information was provided for a sub-group of the 961 cases, so that the relationship between sentencing practices and prior drunk driving cases could be assessed.

### MAJOR FINDINGS

Looking at the data in relation to the stated research objectives, the following are the major findings:

## 1. Processing and Disposition of DUIL Cases

Of the 961 cases which had reached the dispositional stage, 50% were Continued After Hearing of Facts, nearly 39% were found Guilty, 5% were Dismissed, 4% were found Not Guilty and less than 1% were either Nolle Prosequi or Filed. On the average, DUIL cases took about two months between the arraignment and dispositional stage.

## 2. Relationship Between Prior DUIL Arraignments and Dispositions and Sentences

Given the fact that the Legislature intended to have repeat offenders treated more harshly than first offenders, the data were analyzed to determine if the disposition of the court was related to drunk driving cases in the previous six years. The findings appear to be consistent with the general intent of Chapter 373. Over 93% of the Continued After Hearing of Sufficient Facts cases were first offenders. Jail sentences, suspended sentences and split sentences were generally handed down to second and multiple offenders; the average jail term was 68 days. Fines were imposed more often on people with one or more prior drunk driving cases than first offenders. The imposition of monetary penalties and the actual or threatened loss of liberty via incarceration for second and multiple offenders are consistent with the Legislative intent of Chapter 373.

## 3. Disposition/Sentencing Practices in Relation to Chapter 373

While the findings of this study suggest that the courts are following the general intent of Chapter 373, there do seem to be some cases where second and multiple offenders did not receive the full sanctions prescribed to them by law. These exceptions are admittedly small in number. But, for example, nearly 7% of the 442 Continued Without a Finding cases were repeat offenders. Additionally, the law prescribes a 60-day mandatory jail term for the third or subsequent drunk driving case, yet less than half of the 57 offenders in the study with two or more priors were sentenced to incarceration. This finding may be a product of some multiple offenders being charged as first offenders on the criminal complaint, or it may be a reflection of judicial decision making. While it is possible that incomplete reporting of sentencing decisions on the criminal records could artificially deflate the percentage of multiple offenders incarcerated as a result of drunk driving, quality control of the criminal records in the Probation Central File largely preclude this possibility.

## 4. Compare Present and Past Court Practices Regarding DUIL Cases

DUIL disposition data were analyzed at six points in time over an 11 year time span which included two major changes in the law vis-a-vis the disposition of DUIL cases. Chapter 373 appears to have resulted in a sharp increase in the percentage of Guilty findings and a concomitant decline in cases Continued Without a Finding. The percentage of the cases found Not Guilty remained largely unchanged after Chapter 373 was enacted. The distribution of dispositions was also analyzed during the first three months of 1984, and while the high number of Guilty findings had abated somewhat, the range of distributions was still in the direction intended by the Legislature.

## 5. Impact of Chapter 373 Upon Appeal Process

Based on the data from the 961 cases examined in this study, 35 of 371 (9%) of the Guilty findings were appealed. This finding is low, compared to other analyses of appeal data. According to the Monthly Reports of Probation Activities from the Office of the Commissioner of Probation, 19% of the 11,754 DUI Guilty findings statewide were appealed in 1983. This compares to 34% of the 4,009 Guilty findings across the state during calendar year 1981. The number of Guilty findings appealed has clearly increased as a result of Chapter 373; however, the increased frequency of Guilty findings has not resulted in a commensurate increase in appeals.

## 6. Descriptive Profile of DUI Defendants

The majority of individuals arraigned for DUI are males (89.3%) who have had previous involvement with the criminal justice system (64.4%). Over half (61.8%) of the males were thirty years of age or younger. Almost one third (31.9%) of the males had one or more prior DUI arraignments.

Females differ significantly from males in terms of their prior involvement with the criminal justice system (35.4%) and in terms of prior arraignments for DUI (20.8%). There is no difference in age between males and females.

Notwithstanding the apparent concentration of the drinking driver problem among the young male segment of the driving public, careful examination of the data indicates that the population of DUI defendants is not homogenous. Subgroupings of defendants can be made and should be made to manage these individuals appropriately. Age, sex, presence/absence of prior DUI and/or prior criminal arraignments are salient variables which need to be considered, among others, in assessing the recidivism risk/rehabilitation potential of DUI defendants.

## 7. Comparisons of Sample Characteristics to Other Samples of DUI Defendants

Comparisons of DUI defendant profile characteristics across samples over time revealed a relatively high degree of similarity and consistency. The constancy of profile is particularly interesting in light of increased arrests and changes in the law.

## Summary

The data presented in this report provide evidence that Chapter 373 is being administered by the courts in a manner consistent with the law itself and the intent of the Legislature and concerned public. As was intended by the Legislature in passing Chapter 373, the second and multiple offender does seem to be dealt with more severely than the first offender, both in disposition and sentence.

Whether Chapter 373 serves to deter Massachusetts motorists from driving while intoxicated remains to be seen. According to statewide data on arraignments in the Commonwealth, 13,192 people were arraigned for drunk driving during the first four months of 1984, compared to 10,700 during the first four months of 1983, an increase of over 23%. If this trend continues through the rest of the year, we can expect 39,576 DUIL arraignments during calendar year 1984, up from 34,572 in 1983. It would seem that the police are making more arrests through their increased attention to the problem of drinking and driving. Hopefully, this substantial increase in DUIL cases is a result of increased enforcement of the drunk driving law and that in the long run, Chapter 373 may well produce the desired deterrent effect.

# AN EVALUATION OF DRUNK DRIVING IN MASSACHUSETTS

## UNDER CHAPTER 373, ACTS OF 1982

### L INTRODUCTION

Responsive to public concern over rising incidents of drunk driving arrests, accidents and fatalities, the Massachusetts Legislature has made three major revisions of laws affecting the minimum drinking age and sentencing for drunk drivers during the past decade. The first of these changes occurred in 1975 with the passage of Chapter 505, which created alcohol education and treatment programs as a condition of a continued without a finding disposition for first offenders charged with Driving Under the Influence of Liquor.

An increasing number of drunk driving arraignments prompted the Massachusetts Legislature in 1978 to raise the minimum legal drinking age from 18 to 20 (MGL C.138, 34A). This measure was geared toward reducing the number of fatalities caused by drunk drivers, by focusing on a particular age group who were high risks in terms of general automobile driving habits.

More recently, the enactment of Chapter 373 on September 1, 1982 was a result of public and official outcry. Statistics about drunk driving showed that the volume of DUI arraignments was increasing at an alarming rate, up 64% from 20,275 in 1977 to 33,292 in 1982. (Brown et al, July 31, 1983). Newspapers, radio and television stations were filled with reports of traffic accidents and tragic fatalities where alcohol was a prime cause. Chapter 505 of the Acts of 1975 was seen as needing a tougher penalty structure, especially in respect to the second and multiple offender.

The intent of this latest revision of the drunk driving law was to provide more stringent penalties for repeat offenders. For second offenders, punishment included imprisonment or as an alternative, confinement for at least 14 days in a residential treatment program and for third or subsequent offenders, a mandatory 60 days imprisonment. The monetary penalties assessed against drunk drivers were also increased substantially and mandatory license suspension was indicated for first and repeat offenders.

Enactment of the 1982 legislation was considered a necessary step toward increased deterrence of drinking and driving. However, the law's ability to achieve this objective is mediated by a number of factors, among which is the manner in which the law is administered by the courts. Research has shown that inconsistency in administration of drunk driver legislation can affect the deterrence capabilities of the entire legal system (Moskowitz, 1980).

As of April 1, 1983, Chapter 373 had been in effect for seven months, which is admittedly a relatively brief period of time to allow for the full and proper implementation of new legislation. However, the mandatory and explicit nature of Chapter 373, the volume of drunk driver cases handled by the courts during a seven month period, and the interest and involvement of the courts in the generation of the new law provide some assurance that an examination of the operation of Chapter 373 at this point in time is both important and appropriate.

## II. PURPOSES OF THE STUDY

Questions regarding the effectiveness of Chapter 373 must be preceded by a determination that the law is being administered as prescribed. Accordingly, the present study represents a first effort to make this determination through a study of dispositions of drunk driving cases in the District/Boston Municipal Court Departments of Massachusetts.

The purposes of the Study are as follows:

- \* To document and describe processing and disposition of DUIL cases under Chapter 373;
- \* To examine the relationship of court processing/disposition practices in light of the prior DUIL arraignment history;
- \* To compare actual court processing and disposition practices to those prescribed by Chapter 373;
- \* To compare and contrast present court practices in DUIL cases to prior and more recent practices;
- \* To assess the impact of Chapter 373 upon the appeal process;---
- \* To develop a descriptive profile of current DUIL defendants, including demographic characteristics, criminal arraignment history and previous arraignments for DUIL;
- \* To compare, and contrast this profile of current defendants with similar profiles from randomly selected DUIL defendants arraigned in 1973, 1976 and 1977 (Argeriou & McCarty, 1982).

## III. METHODOLOGY

The findings for this study are based on a sample of 2,661 drunk driving cases in Massachusetts, from criminal records received at the Probation Central File in Boston during the period March 21, 1983 - April 8, 1983. The Probation Central File is unique in that it holds statewide criminal history information dating back to 1924 and all court appearance records are centrally stored there. These records include information on the disposition of the cases of all persons who appear before the court of the Commonwealth.

In order for a drunk driving case to be included in the study, the offense had to have occurred after September 1, 1982, the effective date of Chapter 373, Acts of 1982. Key information such as date of birth and disposition had to be available on the record to qualify for inclusion.



## Source of Data

Data used in this study were obtained from the Office of the Commissioner of Probation, Probation Central File. The names of people for inclusion in the study, were produced via a manual daily scan of all incoming records during the sample period (March 21 - April 8, 1983).

## Data Analysis

Frequency dispositions and cross-tabulations of the major dependent variable (drunk driving) comprise the bulk of analysis, along with the application of appropriate measures of association and tests of differences among several variables.

The level of completeness of the data varies across the subjects. The reader is advised, therefore, that the total population will vary from table to table, depending on the variable being analyzed. Complete and final dispositional data were available in 961 DUI cases, and these cases formed the population for analysis of dispositions and sentences under Chapter 373. Criminal histories were available for 1,300 of the 2,661 DUI defendants in the study group.

## Reliability of Study Group

Although the case selection method utilized in this study was nonrandom, there is reason to believe that the case dispositions examined in this report are representative of the totality of DUI dispositions occurring over time in the District and Boston Municipal Court Departments in Massachusetts. For example, the frequency of arraignments by court of origin presented in Table 1 shows all the courts represented in this study. Moreover, when we compared our distribution of study arraignments to the total distribution of arraignments by courts for the year 1982 (Brown et al, 1983) also presented in Table 1, it is clear that the two distributions are essentially parallel. Finally, support for the representativeness of current study cases is provided from comparisons of the demographic and criminal history characteristics of our study group subjects to those of random samples of DUI offenders reported elsewhere (Argeriou and McCarty, 1982).

## Limitations of the Study

The data in this study can be viewed as a "snapshot" of the adjudication of DUI offenders at a particular point in time under the new law. Of concern here is the fact that the process of adjudication of DUI offenders under the new law is rapidly evolving and the "snapshot" taken at Time A may well further change when examined at Time B.

Table 1: Comparison of the Distribution of DUIL Study Arraignments by Court to the Total Distribution of DUIL Arraignments by Court for 1982

<u>Court</u>	<u>Study Arraignments (N=2661)</u>	<u>Total DUIL** Arraignments (N=33,292)</u>
Adams	.1	.2
Amesbury ***	.0	1.1
Attleboro	1.5	2.2
Ayer	1.1	1.5
Barnstable	2.5	3.1
Boston Municipal	.2	.7
Brighton	.8	.6
Brockton	4.5	2.7
Brookline	1.0	.7
Cambridge	1.6	1.8
Charlestown	.2	.7
Chelsea	5.7	3.1
Chicopee	.4	.5
Clinton	.8	1.2
Concord	1.7	2.4
Dedham	3.8	2.2
Dorchester	.5	.9
Dudley	1.5	1.6
East Boston	.3	.3
Edgartown	.3	.4
Fall River	2.2	1.6
Fitchburg	.7	.8
Framingham	2.8	2.8
Gardner	1.4	.8
Gloucester	1.5	.8
Gt. Barrington	.5	.2
Greenfield	.5	.8
Haverhill	1.4	1.4
Hingham	2.8	3.0
Holyoke	.7	.7
Ipswich	.1	.2
Lawrence	2.8	3.5
Lee ***	.0	.4
Lowell	3.0	3.4
Leominster	1.1	.9
Lynn	2.6	1.9
Malden	1.2	1.8
Marlboro	1.4	1.0
Milford	1.1	1.2
Nantucket	.2	.2
Natick	.2	.5
New Bedford	1.3	1.1
Newburyport	1.2	1.1
Newton	.4	.9
North Adams	.3	.5
Northampton	2.4	2.4
Orange	.3	.3
Orleans	.5	1.3
Palmer	1.2	1.3
Peabody	2.0	1.5
Pittsfield	1.4	1.0
Plymouth	2.0	1.7
Quincy	2.6	3.6
Roxbury	1.1	.8
Salem	1.8	1.9
Somerville	1.0	1.1
South Boston	.5	.4
Spencer	1.4	1.1
Springfield	4.4	3.8
Stoughton	1.8	1.0
Taunton	2.6	2.4
Uxbridge	.9	.8
Waltham	1.3	1.1
Ware	.1	.1
Wareham	1.1	1.8
Westboro	1.7	1.3
Westfield	1.5	.8
West Roxbury	1.5	.9
Winchendon ***	.0	.1
Woburn	1.7	1.9
Worcester	2.4	4.4
Wrentham	1.3	1.2
TOTAL	100.0	100.0*

\*Slightly less than 100% due to rounding

\*\*Source: Management Information System, Research & Statistical Bureau, Office of the Commissioner of Probation, Boston, MA

\*\*\*N=1, less than 1/10 of 1%

To assess any shifts in the sentencing practices over time, data on dispositions during the first three months of 1984 are presented, as reported in aggregate form from the local probation offices. The reader should be sensitive to the time limitations of this report and should view the information as descriptive of the court process at a particular point in time.

Of some concern is the level of completeness of information regarding the study subjects. Some data were incomplete in the Probation records. Accordingly, the percentages reported should be considered estimates of the actual frequency of occurrence of a particular sentence condition.

#### IV. FINDINGS

##### A. Court Decisions for Drunk Driving Under Massachusetts General Laws, Chapter 373, Acts of 1982

###### 1. DISPOSITIONS RENDERED

Enactment of Chapter 373 attracted considerable attention on how the courts of the Commonwealth process Driving Under the Influence of Liquor cases. In this section, the dispositions and sentences are examined in detail.

The data in Table 2 show that the records of 961 defendants in the study group of 2,661 defendants contained dispositional data, and as such, comprised the sample for analysis of sentencing practices under Chapter 373.

###### Continued After Hearing of Sufficient Facts

Dispositons in this category include continuances with and without a finding.

Continued Without a Finding is an admission of sufficient facts to establish guilt, but where the court stops just short of a formal guilty finding. This disposition has historically accommodated the majority of DUIL cases since the passage of Chapter 505, Acts of 1975. In this study, over 50% (n=482) were Continued Without a Finding.

Eight cases were recorded with the disposition of Continued With a Finding. It is clear that this disposition is not usually employed by the court in connection with DUIL cases. Examination of the prior records of the eight cases disposed of with this finding revealed previous criminal arraignments in four of the eight cases, but no prior DUIL arraignments.

## Guilty

People who received a disposition of Guilty received the most severe criminal sanctions available, including such penalties as loss of license, fines and in some cases, incarceration. The data indicate that 371 people were formally found Guilty of the drunk driving charges, accounting for nearly 39% of those for whom disposition data were available.

## Not Guilty

The data indicate that 4.2% of the defendants in the sample had a formal finding of Not Guilty for drunk driving. Given the small number of people who are acquitted of the charges, it seems that once the person appears in court on a DUI charge, the probability of a Not Guilty finding is very slim.

## Dismissals

The two subcategories of case dismissals are highly dissimilar in meaning and outcome. The straight dismissal of a case occurred in 12 out of the 961 cases in the study. Such dismissals were due to the lack of prosecution, lack of evidence and/or the decision of the judge that the case should not go forward. It is this category of dismissal which is generally considered to be a case dismissal in the traditional sense.

Table 2: Disposition of Drunk Driving Cases

<u>Disposition</u>	<u>Number Cases</u>	<u>Category Percent</u>
<u>Continuance After Hearing of Facts</u>		
Continued W/O Finding	482	50.2%
Continued With Finding	8	0.8%
<u>Guilty</u>	371	38.6%
<u>Not Guilty</u>	40	4.2%
<u>Dismissals</u>		
Dismissed After Continuance	39	4.1%
Dismissed	12	1.2%
<u>Nolle Prosequi</u>	6	0.6%
<u>Filed</u>	3	0.3%
TOTAL	961	100.0%

Dismissal of a case after continuance represents a more recent disposition which derives from the expanded sentencing options available to the court under Chapter 505 and Chapter 373. This disposition provides an additional incentive to the individual to participate in rehabilitative programs through the offer of case dismissal upon successful program completion; 39 cases were found with this disposition.

### Nolle Prosequi

Six of the 961 DUIL cases received the disposition of Nolle Prosequi, which literally means that the case was not prosecuted and no decision was rendered by the court. Cases which are "nol pros" are sometimes viewed as prosecutor's dismissals.

### Filed

Three cases were filed. Filed cases represent the smallest category of dispositions. In each instance, the individual involved had no prior arraignments for DUIL and no prior criminal arraignments.

## 2. DUIL DISPOSITIONS BEFORE AND AFTER CHAPTER 373

Of great interest is the manner in which the courts have imposed sentences for drunk drivers, under the new law (Chapter 373) as compared to previous DUIL legislation. The data in Table 3 show the distribution of dispositions at six points in time, spanning about 11 years and including two major changes in the law-vis-a-vis the disposition of DUIL cases.

The distribution of DUIL disposition for the year of 1973 illustrates the management of DUIL cases before the passage of Chapter 505, Acts of 1975. The 1976 distribution illustrates the management of DUIL cases in the first full year after the passage of Chapter 505. The 1981 distribution illustrates the management of DUIL cases in the last full year under Chapter 505. The present study distribution is an illustration of the management of DUIL cases about six months after the passage of Chapter 373, Acts of 1982. The 1983 data represent the distribution of dispositions during the first full year after passage of Chapter 373. The data in Table 3 are particularly revealing in regard to the varying proportions of DUIL defendants falling into the three categories of dispositions at different points in time.

Table 3: Comparative Distributions of DUIL Offense Dispositions

Disposition	1973*	1976*	1981** (n=23,768)	Present Study (1983) (n=893)***	Calendar Year 1983**** (n=26,643)
Not Guilty	19.4%	7.8%	4.0%	4.5%	6.3%
Guilty	55.4%	18.8%	17.0%	41.5%	44.1%
CWOF	25.2%	73.4%	79.0%	53.9%	49.6%
	100.0%	100.0%	100.0%	99.9%	100.0%

\* Source: Argeriou & McCarty, 1982. Adjusted for purposes of comparability by excluding defaulters from the original data.

\*\* Source: Brown et. al., 1983.

\*\*\* The percentages shown here are derived by using the sum of the three major categories of disposition as the denominator. Exclusion of the other dispositions was required to achieve comparability.

\*\*\*\* Source: Management Information System, Research & Statistical Bureau, Office of the Commissioner of Probation.

The data indicate that the proportion of people found Not Guilty was highest prior to the passage of Chapter 505. About one case in five resulted in a Not Guilty finding. The specific reasons for this comparatively high proportion of Not Guilty findings are not known. It has been argued, however, that the lack of sentencing alternatives coupled with what was at the time considered by many to be an unduly harsh penalty for a Guilty finding, often resulted in a Not Guilty finding. (The penalty for a Guilty finding, even for a first offense, carried a one-year revocation of the person's driver's license. It was this specific penalty which was considered most onerous.)

Passage of Chapter 505 resulted in a 59.8% decrease in the proportion of cases being found Not Guilty in its first full year of operation. This proportion decreased even further over the lifetime of Chapter 505 such that in 1981, the last full year of its operation, the proportion of Not Guilty findings had fallen 79.4% to 4% of the three major categories of dispositions. Interestingly, Chapter 505, which was considered by some as being too lenient with drunk drivers, was nonetheless apparently instrumental in reducing the number of people who received no penalty or inconvenience for their offense. At a minimum, most people processed under Chapter 505 were required to attend Driver Alcohol Education classes which involved their time and attention to their drinking and driving behavior.

Comparing the proportions of Not Guilty findings under Chapter 373 in the current study to the proportion of Not Guilty findings in the last full year of operation of Chapter 505 (1981), the data indicate there is no significant difference. Although changes in the processing of DUIL cases are clearly taking place under the new law, these changes involve the proportions found Guilty and Continued Without a Finding rather than the proportion found Not Guilty. This finding is also supported by data from calendar year 1983, when 6.3% of those charged with drunk driving were found Not Guilty.

Based on the data in Table 3, the proportion of Guilty findings increased 245% from 1981 to the spring of 1983, when the study sample was gathered.

These changes are dramatic and underscore the immediate impact of Chapter 373, as well as its impact 18 months after enactment. It appears from these findings that the courts have responded to the passage of Chapter 373 in the direction of harsher findings as intended by the Legislature and the various sponsors of this legislation.

### 3. APPEALS BEFORE AND AFTER CHAPTER 373

Given the observed increase in the frequency of Guilty findings and the imposition of jail sentences and fines, it was expected that a parallel increase in the frequency of appeals would be observed. Based on the data examined in this study, 35 of the 371 Guilty findings (9.4%) were appealed.

In examining the data over the past 11 years, even though the number of Guilty findings has increased, the percent of Guilty findings actually appealed has declined from a high of 33.7% in 1981 to a low of 19.1% in 1983.

When we look at the partial data generated by this present study, we see a decline in the percent of Guilty findings actually appealed to a low of 9.4%. However, the data for the full calendar year 1983 show appeals amounted to 19.1% of the Guilty findings.

Table 4: Frequency of Appeal of Guilty Findings Before & After Chapter 373

<u>Time Period</u>	<u>Guilty Findings</u>	<u>Number of Appeals</u>	<u>Findings Appealed Percent</u>
1973 *	277	66	23.8%
1981 **	4009	1352	33.7%
1982 ***	5647	1708	30.2%
1983 ***	11,754	2249	19.1%
Present Study	371	35	9.4%

Source: \* Argeriou and McCarty, 1982

\*\* Brown, et. al., 1983

\*\*\* Unpublished research report, Brown, Prior & Joseph, 1984

#### 4. TIME FROM ARRAIGNMENT TO DISPOSITIONS

The data were analyzed to assess the timely manner in which DUIL cases are processed through the court system. According to the data in Table 5, time does not appear to be a factor related to the court's finding, inasmuch as Not Guilty and Guilty findings took virtually the same average amount of time (about 67-68 days) to reach a disposition. Continued Without a Finding cases took slightly less time on the average (61.7 days).

Taking a look at the time variable from a slightly different angle, 28% of the Guilty and Continued Without a Finding cases were disposed of within 4 weeks, compared to 17.5% of Not Guilty cases. At the 8-week point, 53% of the Guilty and Continued Without a Finding cases compared to 40% of the Not Guilty cases reached a final disposition. This data suggest that while the average amount of time for three dispositional categories seems to be similar, there do appear to be differences between how long the Not Guilty compared to Guilty and Continued Without a Finding cases take when disposition times were compared on a week-by-week basis.

While the average DUIL case takes about two months to reach a final disposition, keep in mind that about a quarter of the cases in this study took longer than three months for adjudication. The frequency distribution is not a normal curve, and this percentage of cases which take 92 or more days to be disposed of in court warrant further consideration.



Table 5: Time Between Arraignment and Disposition for Not Guilty, Guilty and Continued Without Finding Dispositions (Expressed as a percentage of cases experiencing the time period listed)

#Days	#Weeks	Not Guilty (N=40)		Guilty (N=371)		Continued W/O Finding (N=481)	
		Column Percent	Cum. Percent	Column Percent	Cum. Percent	Column Percent	Cum. Percent
*0		5.0%	5.0%	9.2%	9.2%	6.7%	6.7%
1 - 7	1	0.0%	5.0%	1.9%	11.1%	.8%	7.5%
8 - 14	2	2.5%	7.5%	2.7%	13.8%	4.6%	12.1%
15 - 21	3	0.0%	7.5%	4.8%	18.6%	7.7%	19.8%
22 - 28	4	10.0%	17.5%	9.7%	28.3%	8.5%	28.3%
29 - 35	5	5.0%	22.5%	8.6%	36.9%	7.9%	36.2%
36 - 42	6	2.5%	25.0%	4.3%	41.2%	5.4%	41.6%
43 - 49	7	7.5%	32.5%	4.0%	45.2%	6.9%	48.5%
50 - 56	8	7.5%	40.0%	7.8%	53.0%	5.2%	53.7%
57 - 63	9	2.5%	42.5%	3.8%	56.8%	7.3%	61.0%
64 - 70	10	12.5%	55.0%	4.6%	61.4%	6.2%	67.2%
71 - 77	11	2.5%	57.5%	1.9%	63.3%	3.3%	70.5%
78 - 84	12	12.5%	70.0%	3.0%	66.3%	3.1%	73.6%
85 - 91	13	7.5%	77.5%	3.8%	70.1%	3.5%	77.1%
92+	13+	22.5%	100.0%	29.9%	100.0%	22.9%	100.0%
Range (Days)		0 - 158		0 - 208		0 - 203	
Mean		68.1 days		67.4 days		61.7 days	

\*The disposition was made at time of arraignment.

## 5. DISPOSITIONS AND PRIOR ARRAIGNMENTS FOR DRUNK DRIVING

Inasmuch as the intent of the Legislature was to treat second offenders more harshly than first offenders, the data were further analyzed to determine if the disposition of the court was related to the presence of prior arraignments for drunk driving within the previous six years.

As is evident in Table 6, 93% of the people whose cases were Continued With or Without a Finding had no prior DUIL cases within the prior 6 years, compared to 61% of those found Guilty, 68% of those found Not Guilty and 88% of those whose cases were Dismissed, Nol Pros or Filed. Of interest is the same data analyzed from the other direction: 6.6% of those whose cases were Continued Without a Finding had at least one previous DUIL case in the last six years, compared to 37.3% of those found Guilty, 31.6% of those found Not Guilty and 11.8% of those whose cases were Dismissed, Nol Pros or Filed.

While it would appear from this data that these findings are consistent with the general intent of the Chapter 373, there do seem to be some cases where second and multiple offenders did not receive the full sanctions prescribed to them by law. These exceptions are admittedly small in number in this study, but it is nonetheless noteworthy that 6.6% of those whose cases were Continued With/Without a Finding had at least one prior drunk driving case in the previous 6 years.

Table 6: Disposition by Prior DUI Arraignments in the Past 6 Years (in Percent)

Prior DUI Arraignments	Cont. W/WO Finding (442)	Guilty (334)	Not Guilty (38)	Dism., Nol Pros, Filed (17)
None	93.4	61.7	68.4	88.2
One	5.2	23.1	21.1	11.8
Two or More	1.4	15.2	10.5	0.0
TOTAL	100.0	100.0	100.0	100.0

## 6. DISPOSITIONS, SENTENCE CONDITIONS AND PRIOR DRUNK-DRIVING ARRAIGNMENTS

Examining the sentence conditions for 776 study subjects for whom prior record information was available, the data in Table 7 generally support the hypothesis that sentence severity is related to prior DUI arraignments.

Table 7: Sentence Conditions by Prior DUI Arraignment History

<u>Conditions</u>	<u>No Priors (N=619)</u>	<u>One Prior (N=100)</u>	<u>Two or More Priors (N=57)</u>
1st Offender Program	32.6	7.0	5.3
2nd Offender Program	1.0	6.0	7.0
Probation	40.1	33.0	35.1
Jail (Imposed)	2.3	26.0	43.8
Jail (Suspended)	3.4	25.0	54.4
Fine	8.2	34.0	26.3
Surfine	3.4	7.0	8.7
Program Fee	6.8	0.0	1.7
Probation Fee	15.8	2.0	0.0
Court Costs	16.5	3.0	3.5
Restitution	2.6	1.0	0.0
Unspecified Costs	2.1	1.0	7.0
Split Sentence	.2	6.0	5.3

The most revealing comparison is that concerning jail. While 2.3% of those with no prior DUI cases were sentenced to incarceration, this compares to 26% of those with one prior drunk driving case and nearly 44% of those with two or more previous DUI cases. Along the same lines, 3.4% of those with no prior drunk driving cases received a suspended jail sentence, compared to 25% of those with one previous DUI offense and 54.4% of those with multiple prior drunk driving cases.

Clearly, one of the most restrictive punishments for drunk driving is a sentence of incarceration. In this study, 29 people received a jail sentence only, 40 received a combined jail and suspended sentence and 39 received a suspended sentence only. Therefore, 108 people were sentenced to jail, however, 69 actually served a sentence. Of those 69 people who were sentenced to jail for drunk driving (see Table 8), 48% served 7 days or less; about 19% served from 8-30 days, while 17% served 60-90 days. Nearly 16% were sentenced to between 180 and 720 days in jail. The median jail sentence was 10 days.

Table 8: Jail Days to be Served

<u>Jail Days</u>	<u>Frequency</u>	<u>Percent</u>	<u>Cum. Percent</u>
4	1	1.4	1.4
5	2	2.9	4.3
7	30	43.5	47.8
8	1	1.4	49.3
10	3	4.3	53.6
14	2	2.9	56.5
23	1	1.4	58.0
30	6	8.7	66.7
60	7	10.1	76.8
76	1	1.4	78.3
90	4	5.8	84.1
180	5	7.2	91.3
270	1	1.4	92.8
365	4	5.8	98.6
720	1	1.4	100.0
TOTAL	69	100.0%	

Mean - 68.1 days

Mode - 7 days

Median - 10 days

In 10 cases in the study, people were given a split sentence; that is, part of the sentence was for a period of incarceration while the balance was for supervision in the community. It is possible that this group also included weekend sentences, people who were sentenced to serve their period of incarceration during weekends and then return to home and work during the rest of the week.

In Table 9, data were further refined, showing the sentence conditions in relation to prior DUIL arrests and court findings. Clearly, certain sentence conditions were associated with Guilty findings (such as assignment to second offender programs, jail, suspended sentence and split sentence), while such conditions as Court Costs, first offender program and restitution were more closely associated with cases Continued With/Without a Finding.

Chapter 373 intended that second and third offenders should be dealt with more harshly than first offenders, and while the data indicate that this is generally the case, there do appear to be some cases of second and third offenders in the first offender program. Also, 29 out of the 157 cases with prior records (i.e. 18.5%) had their cases Continued Without a Finding. The law requires that such a disposition not be made in the case of second or multiple offenders. Either the cases were not prosecuted appropriately or they were not disposed of properly, or both.

Table 9: Sentence Conditions by Disposition and Prior DUIL Arraignment History

Sentence Condition	No Priors		One Prior		Two or More	
	Guilty (N=206)	Cont. W/WO Finding (N=413)	Guilty (N=77)	Cont. W/WO Finding (N=23)	Guilty (N=51)	Cont. * W/WO Finding (N=6)
1st Offender Program	17.0	40.4	2.6	21.7	2.0	33.3
2nd Offender Program	2.9	0.0	7.8	0.0	7.8	0.0
Probation	52.4	33.9	29.9	43.5	31.4	66.7
Jail (Imposed)	6.3	0.0	33.8	0.0	49.0	0.0
Jail (Suspended)	10.2	0.0	32.5	0.0	60.8	0.0
Fine	24.3	.2	44.1	0.0	29.4	0.0
Surfine	10.2	0.0	9.1	0.0	9.8	0.0
Program Fee	10.7	4.8	0.0	0.0	0.0	16.6
Probation Fee	13.6	12.6	1.3	4.3	0.0	0.0
Court Costs	13.6	17.9	1.3	8.7	2.0	16.7
Restitution	1.9	2.9	0.0	4.3	0.0	0.0
Unspecified Costs	4.4	1.0	1.3	0.0	7.8	0.0
Split Sentence	.5	0.0	7.8	0.0	5.9	0.0

\*Due to small numbers, percentages should be viewed with extreme caution.

## 7. DISCUSSION

The data presented in this report provide evidence that Chapter 373 is being administered by the courts in a manner consistent with the law itself and the intent of the Legislature and concerned public. Whether the law will have a deterrent effect vis-a-vis the problem of drinking and driving remains to be determined.

Of particular interest is the sharp increase in the number of Guilty findings since enactment of Chapter 373.

Conversely, Continued Without a Finding cases accounted for 79% of the dispositions in 1981 (prior to Chapter 373), compared to 54% in this study sample, 56% during calendar year 1983 and 62% during the first three months of 1984. Clearly, this somewhat more lenient disposition has decreased in frequency since enactment of Chapter 373.

The impact of Chapter 373 upon the appeal process has been somewhat surprising. There were 4,009 DUIL Guilty findings in calendar year 1981, representing 14% of the total statewide DUIL arraignments in that year, and by 1983, there were 11,754 Guilty findings representing 34% of all statewide arraignments for drunk driving. Despite this marked increase in Guilty findings, the percent of Guilty findings appealed has declined from 33.7% in 1981 to 19.1% in 1983.

Drunk driving cases in this study, took about two months to reach a court disposition. There appeared to be little difference in the timely processing of Guilty versus Continued Without a Finding cases, however, Not Guilty cases seemed to be somewhat slower in reaching a final disposition. Over 11% of the Guilty findings were reached in a week or less, suggesting speedy trials may be based on the preponderance of the evidence. However, there is a group of about 22% of the cases that are taking 90 days or more to process. Effort should be made to reduce this number.

Chief among the factors associated with case outcome may be a prior record for drunk driving. As was intended by the Legislature in passing Chapter 373, the second and multiple offender does seem to be dealt with more severely than the first offender, both in disposition and sentence. The courts of the Commonwealth appear to be imposing jail sentences, suspended and split sentences, particularly on people with a previous record for drunk driving (within 6 years). On the other hand, there do seem to be some cases of leniency toward the second and third offender and this pattern is clearly contrary to the intent of Chapter 373.

## B. PROFILE OF DRUNK DRIVING DEFENDANTS UNDER MASSACHUSETTS GENERAL LAWS, CHAPTER 373, ACTS OF 1982

The profile characteristics examined in this section are limited to age, sex, prior DUIL arraignments and prior arraignments for other criminal offenses. Data on age and sex are available for the entire sample of 2,661 DUIL defendants. Criminal history information is available on 1,300 defendants for whom criminal history record searches were conducted. The tabular presentations reflect this difference and vary according to the specific variables being examined.

### Sample Characteristics

#### Sex

Women comprise 10.7% of the 2,661 study subjects. This proportion is almost identical to the proportion of women (10.0%) in a random sample of DUIL defendants arraigned in 1977 (Argeriou and McCarty, 1982). A larger proportion of women (12.6%) were admitted to the 28 driver alcohol education programs between July 1, 1983 and December 31, 1983. However, this difference may be due to the greater likelihood that women arrested for DUIL are first offenders and would be eligible for a first offender program.

#### Age

The mean age of the 1983 sample is 30.16 years and the median is 27. The mean ages of men and women did not differ significantly. The age distributions presented in Table 10 indicate arrest for DUIL occurs more often among the younger segment of the driving public. Sixty-two percent (62.0%) of those arraigned in 1983 were 30 years of age or younger. The proportion of licensed drivers aged 30 years and under is approximately 34%.<sup>1</sup> Clearly, younger people are over-represented in the population of DUIL defendants in comparison to their representation in the general driving public. Additional analyses indicate 9.9% of the sample were under the legal drinking age of 20 at time of arrest. Most (85.6%) of the under age drinkers were males.

Comparisons of the age and sex distributions of the 1983 sample to the 1977 sample indicates a redistribution of age may have occurred in conjunction with the raising of the legal drinking age from 18 to 20 year in 1982. A lower proportion of the 1983 sample was 20 or younger (1977 = 19.7%, 1983 = 16.0%). The change is particularly noticeable among women (1977 = 27.5%, 1983 = 17.8%). These data suggest that changes in drinking age may have a relatively rapid impact on individuals in the affected age groups.

<sup>1</sup> Derived from information received from the Massachusetts Registry of Motor Vehicles.

Table 10: Age Distributions of Male and Female DUI Defendants Arraigned in 1977 and 1983

Age	1977			1983		
	Males (N)	%	Total (N)	Males (N)	Females (N)	Total (N)
14 - 20	(117)	18.9	(136)	(374)	(51)	(425)
21 - 24	(115)	18.5	(124)	(533)	(70)	(603)
25 - 30	(129)	20.8	(143)	(558)	(62)	(620)
31 - 41	(123)	19.8	(135)	(570)	(59)	(629)
42+	(136)	21.9	(151)	(336)	(44)	(380)
Column Totals	(620)	100.0	(689)	(2371)	(286)	(2657) *
Median		28.00	28.00			27.00
Mean		31.82	31.73			30.168
SD		12.55	12.56			10.869
						100.0
						26.00
						30.168
						10.453
						10.835

\* N reduced because of missing data

Prior DUI Arraignments

Criminal record checks were conducted for 1,300 of the 2,661 DUI defendants to determine the frequency of prior arraignments for DUI and other criminal offenses. In line with previous studies of recidivism (Maisto et. al., 1979; Argeriou and McCarty, 1982), Table 11 shows 30.7% of those arraigned for DUI had one or more prior DUI arraignments. Among offenders with priors, 18.8% had only one prior and 11.9% had two or more priors. The group with multiple DUI arraignments (11.9%) accounted for 62.8% of all prior drunk driving arraignments.

Table 11 Prior DUI Arraignments of Study Group

# Prior DUI Arraignments	Sample		Total DUI Priors	
	N	%	N	%
0	901	69.3	0	0.0
1	245	18.8	245	37.2
2	82	6.3	164	24.9
3	53	4.1	159	24.2
4	11	.8	44	6.7
5	5	.4	25	3.8
6	2	.2	12	1.8
9	1	.1	9	1.4
TOTALS	1,300	100.0	658	100.0

Of additional interest here, given the specific conditions of Chapter 373, is the finding that 75 or 18.8% of those with prior DUI arraignments had not been arraigned within the past six years. These individuals are eligible for a first offender program because the legislated sanctions are mandated only if a prior arrest occurred within six years of the current arrest. Thus, the rate of recidivism within six years among the 1,300 individuals examined is 24.9%. This proportion is similar to the recidivism rate of 25.9% reported by Argeriou and McCarty (1982, page 80) for a similar period of time.



Based on these latter data, the number of repeat offenders appearing before the courts is approximately one in four (see Table 12). Second offenders comprise 14.8% of this group, third offenders 5.3% and fourth offenders and greater, 4.8%. Applying the proportion of second offenders to the number of DUIL arraignments in a given year provides an estimate of the demand for second-offender programs and incarceration facilities.

Table 12 Time Period of Occurrence of Last DUIL Arraignment

Period of Occurrence	N	Sample %
Within 6 Years of Current Arraignment	324	24.9
Not Within 6 Years of Current Arraignment	75	5.8
No Prior DUIL Arraignments	901	69.3
TOTAL	1,300	100.0

Sex and Prior DUIL Arraignments

Table 13 shows prior arraignments for a DUIL offense were found significantly more often among males (31.9%) than among females (20.8%). These proportions are similar, but higher, than the proportions reported by Argeriou and McCarty (1982, p. 41) for males (29.6%) and females (17.4%) in 1977.

Table 13 Prior DUIL Arraignments by Sex (in Percent)

Prior Arraignments	Sex		Total (N=1,300)
	Male (N=1,156)	Female (N=144)	
None	68.1	79.2	69.3
One or More	31.9	20.8	30.7
TOTALS	100.0	100.0	100.0

$\chi^2 = 6.8774$        $df = 1$        $p = .0087$

The difference in the proportions of prior DUI arraignments between the sexes suggests that women are lower risk to recidivate than men. In this connection, however, it should be noted that a variety of factors operate to lower the recidivism rate among women including the reluctance of police to arrest women for DUI (Argeriou and Paulino, 1975).

### Age, Sex and Prior DUI Arraignments

Males ( $\bar{m} = 31.83$ ) and females ( $\bar{m} = 30.80$ ) with prior DUI arraignments are significantly older than males ( $\bar{m} = 29.69$ ) and females ( $\bar{m} = 29.54$ ) without prior DUI arraignments. ( $F = 10.396, 2, 1,296 \text{ df}, p = .001$ ). Although older individuals have more opportunities to be rearrested, the relationship is not simple, as will become evident in subsequent analyses. No difference in average age of the sexes was found with prior DUI arraignments held constant ( $F < 1$ ).

### Criminal Behavior Among DUI Defendants

Previous criminal justice system involvement among the subgroup of 1,300 DUI defendants is presented in Table 14. The percentages represent the absolute proportions of the subgroup exhibiting one or more arraignments for the corresponding offense. The percentages do not add to 100% because some individuals have been arraigned for several types of offense and are included in each category.

The data presented in Table 14 indicate the variety and relative frequency of criminal behaviors among the DUI defendants. Comparison of this distribution of offenses to the distributions of criminal offenses among three random samples of DUI defendants (Argeriou & McCarty, 1982, p. 51) suggests the distributions are similar both in terms of frequency and type of offense. Similar distributions from different points in time suggest that the types of criminal behavior among DUI defendants are relatively stable. From these and other data (Moskowitz, et. al., 1979), it is clear that prior criminal justice system involvement is not uncommon among DUI defendants and that such involvement is oftentimes of a serious and habitual nature.

The criminal behaviors reported in Table 14 are reduced in Table 15 to four mutually exclusive categories: No previous arraignments of any kind, previous arraignments for DUI only, previous criminal and DUI arraignments, and previous criminal arraignments only. The data are also categorized by sex of the defendant.

Table 14: Criminal Arraignment History of 1,300 DUIL Defendants

<u>Offense Category</u>	<u>Specific Offense</u> %	<u>Category Total</u> %
<u>Person</u>		16.8
Murder	.2	
Manslaughter	.1	
Aggravated Assault	6.8	
Simple Assault	11.7	
Robbery	1.7	
Kidnapping/Abduction	.2	
Rape	.9	
<u>Property</u>		26.8
Arson	1.0	
Auto Theft	.5	
Burglary	11.2	
Larceny	17.3	
Embezzlement	.1	
Fraud	.3	
Stolen Property	3.8	
Vandalism	5.7	
<u>Sex</u>		1.2
<u>Drug</u>		9.8
Possession and Use	9.6	
Operating Under Influence	.2	
<u>Public Order</u>		28.5
Disorderly Conduct	15.4	
Liquor Law Violations	8.3	
Gambling/Vice	.2	
Family Abuse	4.2	
Other	7.8	
<u>Criminal Traffic</u> (Except DUIL and Operating Under Drug)	20.8	20.8

Table 15: Criminal Arraignment History of DUI Defendants by Sex

	Males (N=1156)	Females (N=144)	Total (N=1300)
No Previous Arraignments	35.5	64.6	38.7
Previous DUI Arraignment Only	8.8	14.6	9.5
Previous Criminal and DUI Arraignments	23.1	6.2	21.2
Previous Criminal Arraignments Only	32.6	14.6	30.6
TOTAL	100.0	100.0	100.0

$\chi^2 = 62.2586$        $df = 3$        $p < .0001$

Based on this four-fold classification of criminal history, 38.7% of the subgroup of DUI defendants have had no prior involvement with the criminal justice system, 9.5% have been previously involved but this involvement is limited to the same offense of DUI, 21.2% have been previously arraigned both for prior DUI and other criminal offenses, and 30.6% have been previously arraigned for criminal offenses only. From these data, it appears that a dichotomy exists among DUI defendants vis-a-vis knowledge and experience of the criminal justice system. There are those who have never been previously arraigned, or at least only been arraigned for the offense of DUI, and have little knowledge/experience of the system. This group represents slightly less than half (48.2%) of the total group of DUI offenders. The other group (51.8%) is comprised of individuals who have more experience with criminal justice system having been previously arrested for DUI and/or criminal behavior.

The dichotomy is most apparent among males. Females are significantly different from males in the proportions and pattern of previous criminal justice involvement. A large proportion of females have no previous history of arraignment (64.6%). In comparison, 35.5% of the males had no previous history of arraignment. Also, more women (14.6%) than men (8.8%) exhibited prior arraignment for DUI only. Combining these proportions for females and males, respectively, 79.2% of the women and 44.3% of the men can be classified as being relatively naive vis-a-vis the criminal justice system. Conversely, 55.7% of the males and 20.8% of the females have had more extensive involvement with the criminal justice system. In sum, not only are more males than females arraigned for DUI, but more males than females are likely to have been previously arraigned for other criminal offenses.

The relationships between previous criminal justice system involvement and age are examined in Table 16. There are significant age differences among the offense categories. Individuals previously arraigned for criminal offenses only are significantly younger ( $M = 27.91$ ) than those with prior DUIL arraignments only ( $M = 33.89$ ). Individuals with criminal and DUIL arraignments ( $M = 30.80$ ) are slightly younger than those with no previous arraignments ( $M = 31.06$ ). The difference is not significant, but the direction of the difference is consistent with the observed youthfulness of those exhibiting a history of previous criminal arraignments only.

Of additional interest here is the reversal of the age distribution of individuals with prior criminal arraignments only compared to individuals with prior DUIL arraignments only. Almost half (46.5%) of those with criminal arraignments only are twenty four years old or younger, while 29.3% of this category are thirty one years of age or older. Conversely, among individuals with prior DUILS only, 29.3% are twenty four years of age or younger and 47.1% are thirty one years of age or older. Clearly, these two groups of defendants differ markedly in age composition, history of criminal involvement and quite likely, in other ways not measured in this report, which need to be considered by the courts when developing plans for the management of these defendants.

Table 16: Age and Previous Criminal Justice System Involvement

Age	No Prev. Arrgmnt. (N=503)	Prior DUIL Only (N=123)	Prior DUIL and Criminal (N=276)	Criminal Only (N=398)
14 - 19	11.1	4.1	5.4	12.6
20 - 24	26.8	25.2	24.6	33.9
25 - 30	18.9	23.6	26.4	24.1
31 - 41	26.6	19.5	31.5	19.8
42+	16.5	27.6	12.0	9.5
TOTAL	100.0	100.0	100.0	100.0
$\chi^2 = 60.5529$ $df = 12$ $p < .0001$				
Mean Age	31.06	33.89	30.80	27.91
S.D.	11.6638	12.0083	9.3402	9.0494
$F = 12.767$ $df = 3$ $p < .0001$				

Our earlier finding that defendants with prior DUI arraignments were older than those without priors must be qualified in light of the data presented in Table 16. Now it appears that this finding is true for individuals with prior but without a history of other criminal arraignments.

Prior arraignment for DUI and previous criminal arraignment history are further explored in Table 17. These data show a positive, linear and statistically significant relationship between variables; as frequency of criminal arraignments increases, so too does the frequency of prior DUI arraignments. However, this relationship is true for males only.

The impact of this finding vis-a-vis the occurrence and prediction of DUI recidivism has been explored elsewhere (Argeriou and McCarty, 1982). Simply put, the probability of DUI recidivism among those with records of criminal behavior is significantly greater than among those without prior records.

Table 17: Criminality and Prior DUI Arraignments (in Percent)

Criminal Arraignments :	Prior DUI Arraignments		
	None (N=901)	One (N=246)	Two or More (N=153)
None	60.5	43.1	24.8
One-Two	25.6	28.0	30.7
Three or More	13.9	28.9	44.4
TOTAL	100.0	100.0	100.0

X = 109.5871      df = 4      p < .0001

## SUMMARY

The study group of 2,661 defendants examined in this report were primarily males (89.3%) between the ages of 14 and 30 years (61.8%). The age distributions of males and females were almost identical. Ten percent of the study group was under the legal drinking age at time of arrest.

Criminal history record searches were conducted on 1,300 of the 2,661 DUIIL defendants. Almost one-third (30.7%) of the 1,300 criminal histories examined contained prior arraignments for DUIIL. More males (31.9%) than females (20.8%) had previous DUIIL arraignments. A small group (11.9%) of multiple offenders accounted for 62.8% of the 658 prior DUIIL arraignments uncovered in the criminal history record search. This finding of a hard core group of DUIIL defendants accounting for nearly two thirds of the prior DUIIL arraignments confirms the earlier finding by Argeriou and McCarty (1982) which showed 7.7% of their sample of DUIIL defendants accounting for 48.6% of the prior DUIIL arraignments. Lastly, seventy five (18.8%) of those with prior DUIIL arraignments (N = 399) had not been arraigned within six years of their current DUIIL arraignement.

Over half (61.3%) of the 1,300 records examined contained prior arraignments for criminal offenses during the lifetimes of the defendants involved. Significantly more males (64.5%) than females (35.4%) had been previously arraigned for a criminal offense. The nature of the criminal involvement was varied, with 8.8% of the males and 14.6% of the females having been previously arraigned for DUIIL only. The remainder of the criminal system involvement among males (55.7%) and females (20.9%) included a variety of offenses ranging from public order offenses to murder.

The relationships between age and criminal justice system involvement differed significantly by type of involvement. Individuals who had been previously arraigned for criminal offenses only were youngest (M = 27.9) followed by individuals with prior DUIIL and criminal arraignement (M = 30.8), individuals with no previous arraignments (M = 31.1), and individuals with prior DUIIL arraignments only (M = 33.9). These differences show a strong relationship between criminality and relative youthfulness.

The relationship of criminal arraignments and prior arraignments for DUIIL was positive, linear, and statistically significant. As the frequency of criminal arraignments increases so, too, did the frequency of prior DUIIL arraignments. The relationship was found to be true only for males.

Comparisons of the profile characteristics of DUIIL defendants examined in this report to the characteristics of other samples of DUIIL defendants showed consistency over time. Such profile stability is particularly interesting given significant increases in DUIIL arrests over time.

## DISCUSSION

The sample characteristics and the subgrouping of offenders according to these characteristics indicate that individuals arraigned for DUI should not be cast together in an undifferentiated fashion. Failure to consider differences among DUI offenders increases the likelihood that they will not be effectively managed in their involvement with the criminal justice/rehabilitation systems.

Of particular concern here is the difference among offenders in their relative risk to recidivate. While not all factors related to recidivism are known, age (30 years or under), sex (male), prior arraignments for DUI and/or prior criminal arraignments have been found to be significantly related to recidivism and were examined in this report. Using these four variables in combination, 35.9% of the 1,300 individuals whose criminal histories were examined can be classified as being high risk. This is a conservative estimate derived from only four indicators. The addition of other alcohol use/abuse related variables would significantly increase the proportion of individuals identified as high risk.

The classification of offenders according to prior arraignment history, age, and sex not only provides an assessment of recidivism risk, it illustrates the need to develop alternative penalties and programs which would match offender characteristics more closely. Through such matching, it is expected that effectiveness of intervention efforts would be greatly enhanced and the rate of recidivism reduced.



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